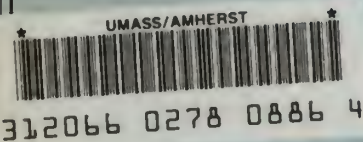


Commonwealth of Massachusetts
Department of Revenue



**INTEGRITY:
OUR TOP PRIORITY**

**Office of Internal Affairs
The First Three Years**



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Ira A. Jackson
Commissioner of Revenue

Thomas D. Herman
First Deputy Commissioner of Revenue

August 1986

Integrity: Our Top Priority

**Office of Internal Affairs
The First Three Years**

A three-year report on the Department of Revenue's Office of Internal Affairs and other initiatives taken to protect the integrity of tax administration in the Commonwealth

prepared for

The Honorable Michael S. Dukakis, Governor

and

**The Governor's Advisory Task Force
on the Department of Revenue**

Professor Paul R. McDaniel, Chairman

Massachusetts Department of Revenue

Office of Internal Affairs: The First Three Years

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INTRODUCTION

A government agency entrusted with confidential information and sweeping powers over people's financial lives carries a heavy responsibility to the public it serves. The Massachusetts Department of Revenue, whose work involves handling massive sums of money and sensitive personal records, must have added concerns about the potential for corruption, misuse of power and breaches in security. Failure to exercise that trust impartially and fairly, failure to provide safeguards for both public funds and private records, can erode the foundation of a tax system based on self-assessment and voluntary compliance.

By late 1982, allegations of misconduct had undermined public confidence in the integrity of the Department and impaired the morale and effectiveness of its employees, the vast majority of whom were honest and hardworking. Indeed, the Governor's Advisory Task Force on the Department of Revenue noted:

Despite DOR's accomplishments, the Task Force found that persons outside the Department -- too many persons in its opinion -- view it as inefficient, subject to and perpetuating improper political influence in its operations, often arbitrary, unprofessional and insensitive in its dealings with the public, and, most seriously, a source of corruption within State government. These perceptions, if true, would constitute a serious indictment of the Department. Indeed, from the standpoint of the continued successful operation of a largely self-assessing tax system, the existence of the perceptions is nearly as damaging as is actual evidence on the matters.

It was against this backdrop that DOR management in 1983 moved boldly and systematically to address these problems. It made integrity its top priority and put in place many new systems and safeguards to ensure honest administration of state tax laws. This report describes the Department's integrity initiatives, organizational structure and operations. Its focus is upon the Office of Internal Affairs, DOR's principal integrity enforcement arm, in its first three years in operation.

I. BACKGROUND: The Governor's Advisory Task Force and Its Findings

On December 1, 1982, Governor-elect Michael S. Dukakis took an extraordinary step. As one of his first official acts following his election he appointed a ten-member Advisory Task Force on the Department of Revenue (DOR) to "make recommendations to insure the integrity of the revenue collection process." Chaired by Professor Paul McDaniel of Boston College Law School, the Task Force spent seven months studying the Department's organization, mandate, operations and needs. It received 2,500 hours of pro bono consulting time from large private auditing and management consulting firms and from the Internal Revenue Service. It presented its comprehensive report in July 1983. But long before that, cooperative efforts between the Task Force and the Department's new leadership had started producing major, needed improvements in DOR organization and operations.

A key finding of what came to be known as the McDaniel Commission was that as of January 1983, the Department had essentially no effective internal security function. The Commission's Report bluntly warned that "the integrity of dealings between DOR personnel and the taxpayers could not be assured." DOR's Internal Security Bureau, which prior to January 1983 was assigned to provide the Department's internal security function, was, in a word, inadequate. The chief of the Bureau had little investigative or auditing

experience. None of its other seven staff members, all of whom belonged to the employees' union, had accounting degrees or professional investigative experience. The McDaniel Commission found that the Bureau had initiated no significant integrity investigations since its creation in 1979 and had conducted no pre-hiring tax or criminal history checks on DOR job applicants. At the same time it was responsible for and distracted by a variety of functions unrelated to security.

Among the McDaniel Commission's key recommendations: creation of an independent Division of Inspectional Services and implementation of a Code of Conduct for Department of Revenue employees.

II. INTEGRITY INITIATIVES AND RESULTS

Since January 1983, the Department of Revenue has taken many steps and expended considerable time and effort to remedy past security shortcomings and safeguard the integrity of revenue administration in Massachusetts. These measures include the recommended creation of the Division of Inspectional Services and implementation of a Code of Conduct. Pre- and post-hiring screening of all job applicants and employees has been initiated and is ongoing. Extensive training on integrity awareness has been provided to all Revenue employees. Finally, legislation has been filed to provide statutory safeguards and insure that the integrity initiatives of this most sensitive of state agencies endure.

Most important of all, the Department's leadership has adopted and communicated to all levels of the Department the new ethic: integrity is DOR's top priority; compromise of these high standards by anyone will be neither tolerated nor condoned.

A. INSPECTIONAL SERVICES

In June 1983, after extensive preliminary work, detailed planning and careful recruitment, the Department abolished the old, ineffective Internal Security Bureau and formally created its Division of Inspectional Services. The new Division was established to operate independently of all other Departmental functions. It was located in offices outside of Departmental headquarters and reports directly to the Commissioner through the First Deputy Commissioner.

Inspectional Services has two separate units -- the Office of Internal Affairs, principally responsible for investigating allegations of employee and taxpayer misconduct, and the Office of Internal Audit, responsible for monitoring the efficiency, effectiveness and integrity of DOR's internal management systems and controls. This report will focus on the first three years' accomplishments of the Office of Internal Affairs. A separate report on Internal Audit will follow.

Based upon the recommendations of the McDaniel Commission and the on-the-job findings of Commissioner Ira A. Jackson and First Deputy Commissioner Thomas D. Herman, Internal Affairs was modeled on the highly respected and successful integrity force at the IRS. Two IRS consultants spent two months working with First Deputy Commissioner Herman in 1983 studying the inadequacies of DOR's existing system and drawing a blueprint for the new system.

The new office was given broad powers and made responsible for investigating allegations of employee misconduct and taxpayer misconduct, including: attempted bribery, assault, threats and any other illegal interference with tax administration, either from internal or external forces. Internal Affairs is also responsible for the physical security of all DOR facilities -- 15 offices throughout Massachusetts and five more in other states across the country. The Office has also established a photo I.D. security system for the protection of all 2,100 DOR personnel, documents and other assets.

First Deputy Commissioner Herman, an attorney formerly with the Boston law firm of Hale and Dorr, oversees the work of the Office. Directly in charge is Frank A. Ricci, former Commander and Chief of Detectives of the Warwick, Rhode Island, Police Department, who now has a staff of ten under his command. All of the Office's personnel

are experienced investigators, accountants or both. All have received specialized training from the Federal Law Enforcement Training Center in Glynco, Georgia. Several have done additional study at the University of Delaware College of Criminal Justice, various Harvard and University of Massachusetts management schools, and numerous other job-related training seminars.

Throughout its first three years, Internal Affairs has received much assistance and guidance from various law enforcement agencies, especially from the Office of the Attorney General, but also from various District Attorneys throughout the Commonwealth.

B. INVESTIGATIONS AND DISPOSITIONS OVERVIEW

The most critical function of Internal Affairs has been to keep a watchful eye on the Department's staff. The goal is not only to root out and punish wrongdoers but to protect the vast majority of employees who honestly and conscientiously serve the Commonwealth and its taxpayers.

In the three-year history of Internal Affairs, legal or disciplinary action, including termination of employment, stemming from its investigations, has been taken against 55 persons. Painful as that fact may be, the number involves only about 2% of the Department's total staff. And with an effective, professional security force at work, the public can believe that such instances

are aberrational. As the McDaniel Commission noted in 1983, that assurance could not then be given and would not have been believed if it had been offered.

It is worth noting that more than half of the 123 misconduct cases which Internal Affairs has investigated since 1983 stemmed from concerns of other DOR personnel themselves. Happily, most of those have been resolved without a finding of wrongdoing. But the reports themselves are a sign of the concern for the Department, its performance and the public perception of it that runs through its staff. Many of these conduct cases were referred to Internal Affairs before the referral of integrity cases became a requirement under the new Code of Conduct, which became effective in November, 1985.

Internal Affairs has also conducted five investigations into alleged bribes or bribe attempts and another 74 pro-active inquiries to inquire into matters of special concern to the Commissioner or the First Deputy Commissioner. Those have included a check of all DOR employees to see if any might be receiving unemployment compensation to which they were not entitled. No one was doing so. Special investigations are also launched when DOR employees are charged with offenses not directly related to their duties in the Department, but which relate to their suitability for employment in DOR. Other

such investigations involve systemic problems like thefts of refund checks from mailboxes.

Since 1983, seven cases have been made public involving criminal indictments or State Ethics Commission action involving then-active or former Department employees. Internal Affairs has been involved in all of these cases, frequently working with other law enforcement agencies.¹

Only four of them involved actions related to the person's duties at the Revenue Department. In six of the seven cases the individuals involved have pleaded guilty to the charges against them. The seventh case is still pending in court.

The three persons who were on the Department's payroll at the time criminal indictments were brought against them were immediately suspended from their jobs without pay pending disposition of the cases, as provided under the state's so-called Perry Law or the Code of Conduct, or both. Two employees subsequently resigned upon dispositions of their cases. The third -- who is charged with involvement in a welfare fraud ring -- remains on suspension pending disposition of her case.

¹ The Internal Revenue Service reported in its 1984 Annual Report that investigations by its Internal Security Division resulted in arrests or indictments of 144 current or former IRS employees in that year.

One Ethics Commission referral involved a former DOR Assistant Bureau chief charged with illegally involving himself in a tax case after he left the Department. That violation, for which a \$500 fine was imposed, was discovered by a current DOR employee who reported the incident directly to Internal Affairs. It investigated the matter and forwarded its results to the Ethics Commission for action.

In all, Internal Affairs has referred 15 cases to various federal, state and local agencies for further investigation. Some of these are still under investigation. Eight have been referred to DOR's own Criminal Investigations Bureau, which develops evidence on tax fraud and evasion for the Attorney General or other District Attorneys for prosecution.

Internal Affairs investigations into both criminal and conduct questions have also resulted in termination of employment for 12 people. That in itself is a serious penalty, involving loss of salary and other benefits. Twenty-two others have been suspended for periods up to two months, and ten employees have received formal reprimands.

In five cases Internal Affairs secured reimbursement for the state when employees either overstated travel expenses or took unauthorized time away from their jobs. The Office also acts as the vehicle for the return of

gratuities improperly (if sometimes innocently) offered DOR employees. That has been done in ten cases.

The number of reported gratuity cases has declined steadily over the three-year period as knowledge has spread of the strict DOR standards and the effectiveness of Internal Affairs in enforcing them.

Internal Affairs is also responsible for investigating assaults or threats on DOR employees or their families, activities made crimes under the 1983 REAP statute. Internal Affairs has investigated nine such assault cases, including one in which the owner of a Central Massachusetts restaurant was found guilty of assault with a dangerous weapon -- an Uzi submachine gun.

The job of maintaining integrity in an organization with 2,100 employees in offices throughout Massachusetts and around the country with broad discretionary power and a cash flow of over \$30-million a day will never end. But DOR employees know and the public should be increasingly aware and assured that the Office of Internal Affairs is on the job and doing it well.

C. EMPLOYEE SCREENING

An organization can only be as strong, honest and effective as the people who work in it. One of DOR's highest commitments has been to assure the public that the people working in DOR merit the great authority,

discretion and trust the Legislature and the taxpayers have given this agency.

1. Tax Checks

Prior to 1983, no systematic criminal record or tax filing checks were done on DOR job applicants or employees. One of the new Administration's first integrity initiatives -- a tax check on all DOR employees in early 1983 -- was a sobering reminder of the need for such pro-active integrity checks. Ten employees were terminated, suspended or otherwise disciplined for failure to file or pay their taxes at that time. All Department of Revenue employees are now checked annually to insure that they file. Some are selectively audited. All DOR job applicants since 1983 have been given pre-hiring tax filing checks going back at least five years -- a project involving 4,837 applicants for 24,185 tax years.

2. Criminal History Checks

Prior to 1983, no systematic criminal record checks were done on Department of Revenue job applicants or employees. As a result, a number of persons with serious criminal records obtained and continued to hold jobs from which an effective screening process would have barred them. In August 1983, the Office of Internal Affairs was designated a criminal justice agency by the Criminal History

Systems Board and thus given authority to review Criminal Offender Record Information (CORI) both to screen applicants and review the status of current employees. Since that time, the Department has screened 6,095 employees and job applicants. As a result of this rigorous screening process 231 individuals were not hired due to criminal records which rendered them unsuitable for employment in DOR. Investigation by Internal Affairs also revealed that three employees had falsified their employment applications to omit their criminal records. They were either terminated or otherwise disciplined.

3. Background Investigations

Prior to 1983, there was another serious gap in the Department's screening process for hiring and promotion to the most senior and sensitive DOR positions. No in-depth background checks were done on candidates for those jobs. That has long since changed, and Internal Affairs now conducts comprehensive background investigations on candidates for all such positions. These background investigations include researching credit history, verifying employment, education and other references. More than 80 such extended background checks have been completed. Eleven of the 83 candidates failed to meet the Department's high standards and were not given the jobs.

The combined pre-hiring tax, CORI and extended background checks are thought to have been responsible for a decrease in the number of applicants with problematic backgrounds. The Department of Revenue appears to be attracting a better quality of employee applicants. With growing awareness of DOR's reputation for rigid pre-hiring screening, those with criminal or tax problems are not applying.

D. CODE OF CONDUCT

The capstone of the Department's integrity initiatives has been the implementation of a Code of Conduct for all the Department's professional (Unit 6) employees and managers. The McDaniel Commission strongly recommended that DOR draft and implement such a Code as an essential element of an effective integrity program. As its Report stated, "Lack of a Code of Conduct assists only the few dishonest employees; its adoption will provide protection to the vast majority of honest employees."²

Development and drafting of the Code was begun in 1983 by a committee of DOR managers under the direction of First Deputy Commissioner Herman. Because the Code

² The Code will soon apply to all of DOR's 691 clerical (Unit 1) personnel. In July 1986, after lengthy but cooperative negotiations, Unit 1 voted to accept a new contract containing the Code. Over 9,100 Unit 1 employees in 56 other state agencies will also be bound by the Code.

involved changes in the conditions of employment for the Department's professional employees, its terms had to be negotiated with their union. Negotiations began in late 1983, but were then suspended for over a year due to a union representational dispute. Collective bargaining on the Code resumed early in 1985, and, after ratification by union membership, a new contract containing the Code was adopted in July of 1985. Implementation followed a Department-wide training program during the fall. A substantial portion of the Code negotiated by the Department also applies to about 2,400 professional employees in 27 other state agencies.

The Code itself seeks to guide employees on their professional and ethical obligations. It places certain restrictions on outside employment -- particularly in the accounting, legal and assessing fields. It prohibits employees from preparing tax returns for others. It requires disclosure of certain outside activities and employment. It also requires DOR employees to report either taxpayer or employee misconduct, including violation of the Code, to Internal Affairs. To protect DOR employees and insure the proper handling of all cases, the Code also requires DOR employees to report all contacts from public officials concerning tax cases to the Department's Problem Resolution Office.

The Code of Conduct is administered by a special section of the Office of Internal Affairs. Mary McAuliffe,

an attorney and a former counsel for the Internal Affairs unit of the Boston Police Department, is DOR's Code Coordinator.

E. INTEGRITY TRAINING

One of the keys to the success of DOR's integrity initiatives has been extensive Department-wide integrity training. The Department feels that its employees must understand not only **what** is expected of them, but **why**. Over the past three years, literally thousands of hours of integrity training time have been provided to all DOR employees in Boston, in our District and Regional offices throughout Massachusetts and in our Multistate offices across the country. These programs are based on a fundamental theme: integrity is the responsibility of each individual at the Department of Revenue.

1. "Integrity Awareness" Training

In 1983 and 1984, every Department employee in every office in Massachusetts and across the country attended "Integrity Awareness" training seminars conducted by the Offices of Internal Affairs and Internal Audit. These seminars focused on the role and procedures of Inspectional Services, the importance of honesty in revenue administration and how to recognize and react to a bribery attempt. Either

Commissioner Jackson or First Deputy Commissioner Herman addressed each seminar to underscore the Department's theme that the tone for integrity must be set at the top. Training was also provided on the ways to cope with an assault. A two-hour training module on these issues is now an integral part of the orientation training program for all new DOR employees. In all, over 2,500 staff members at every level have attended these sessions during the past three years.

2. Code of Conduct Training

Internal Affairs also conducts a separate training seminar on the Code of Conduct, which is mandatory for all professional employees and managers. The two-hour Code training session includes an award-winning video tape created especially for the Department. The seminar explains the Code and illustrates general Code rules and filing requirements with real-life examples. All current DOR employees have received this training, and an ongoing program is provided for all new employees. DOR's Code training program has been used as a model for other state agencies. The Department also publishes as needed for all employees a "Code Update" newsletter, which describes recent Code rulings, changes and interpretations.

3. Conflict of Interest Training

Finally, the Department has worked with the State Ethics Commission to develop a training seminar on the state's conflict of interest laws. Some of these conflict issues are addressed in the Code of Conduct and in Code training. However, the Department feels that an extra level of training and study for managers helps to insure that they understand the legal and practical complexities sufficiently to provide guidance on conflicts questions for their staffs. Ethics Commission personnel have presented several two-hour training sessions to all DOR managers since 1984. Future seminars are planned both to introduce new managers to these issues and to update those who have already attended.

III. LEGISLATION

In line with the recommendations of the McDaniel Commission, the Department has proposed legislation to accomplish integrity initiatives beyond what it is empowered to do administratively. This legislation has been endorsed and submitted by Governor Dukakis and is now pending before the General Court.

The proposed legislation would amend the statutory organization of DOR (M.G.L. c. 14 § 2) to include a Division

of Inspectional Services and thus insure the continued existence of this critical function. It would also adopt a statutory preamble to the Department's charter (M.G.L. c 14 § 1) firmly establishing the paramount importance of the promotion of public trust and confidence in administering our tax laws with integrity, impartiality and equity.

The second major theme of the proposed legislation is the depoliticization of DOR. The McDaniel Commission, recalling the series of scandals which rocked the IRS in the early 1950's, noted, "The single most important factor in curbing corruption within the IRS was the depoliticization of the agency." (Emphasis in original.) The McDaniel Commission drew no conclusions as to whether or not political influence had affected Departmental performance in the past. However, it argued that "the burden is on those involved in the political process to take steps to assure the public that politics and political influence in fact do not play an improper role in the hiring, assignment or promotion of departmental personnel or in the administration of the tax laws."

The proposed legislation would prohibit Department of Revenue employees from holding state public office, from participating in state-wide political campaigns and from contributing to state-wide political campaigns.

V. CONCLUSION

With the assistance and guidance of the Governor, the Legislature, the McDaniel Commission and DOR's own senior management team, DOR has made great strides during the past three years to restore public confidence in the integrity of the Department and to reinvest pride in their workplace among employees. Maintaining integrity throughout an agency of over 2,100 employees, however, takes ongoing vigilance and communication, and it cannot be achieved in a vacuum.

As the McDaniel Commission observed in 1983, the potential for corruption and inefficiency in DOR was rooted, in large part, in structural deficiencies which then existed throughout the Department: lack of adequate tracking, reviewing and management control with respect to collection of accounts receivable; a haphazard organizational structure permitting overlapping or uncoordinated compliance efforts; antiquated, manually driven systems; low morale; uncertain agency mission; inadequate paycales, training programs, promotional and career tracks, and management control techniques, to cite but a few.

Pursuant to guidelines set out by the Commission and the independent actions taken by DOR executive management, the Department of Revenue has made extensive improvements in all of these areas to complement and strengthen the Department's integrity initiatives. The job, however, is not done and never will be completely finished.

Integrity is more than an organizational structure and a series of training sessions. It requires a living and practicing commitment by each employee, led by those in top management, to a high ethical standard which does not tolerate conflicts of interest, compromise of principle or dishonesty on the job. It requires constant vigilance, communication and leadership by example.

This summary of the first three years of Internal Affairs' operation makes clear the need for such a unit. DOR management is not so naive as to believe that an agency as large as ours, vested with great authority and discretion and collecting over seven billion dollars annually, could be immune to the occasional malefactor. Obviously, it is not. However, the work of the Office of Internal Affairs sends a clarion signal to employees and the public that DOR is serious about rooting out and dealing firmly with those who seek to undermine, compromise or destroy the system. We realize, and the public must understand, that these people are exceptions to the rule, and are not representative of the honest public servants who are the vast majority of DOR employees.

Finally, however, a note of caution. Our commitment has been to treat honest taxpayers honestly, fairly and firmly. Our commitment to our employees must be the same. We must heed Nietzsche's caution: "We who fight monsters must take care, lest we become monsters thereby."

Now with three years experience behind us, we are convinced that we have avoided that danger. Changes and refinements in the system will always be considered and made as needed. But the evidence today indicates that we have established necessary structure, hired good people and provided the essential safeguards for our employees, all the while doing an essential monitoring and control job for the public at large.

STATISTICAL DATA OF INTERNAL AFFAIRS

TYPES OF CASES OPENED

DESCRIPTION	FY84	FY85	FY86	TOTALS
Conduct	55	41	27	123
Extended Background	6	45	32	83
Special Inquiry	19	38	17	74
Bribe	2	2	2	6
Security	10	10	0	20
Gratuity	5	3	3	11
TOTALS	97	139	81	317

Number of Cases



Type of Case

STATISTICAL DATA OF INTERNAL AFFAIRS

DISPOSITION OF CASES

DESCRIPTION	FY84	FY85	FY86	TOTAL
Extended Background Hired/Promoted	5	39	28	72
Extended Background Not Hired/Promoted	1	6	4	11
Exoneration/No Grounds for Action	27	25	23	75
Gratuities Returned	5	3	3	11
Referral to CIB	6	1	1	8
Referral to Federal/ State/Local Agencies	6	7	2	15
Referral to Internal Audit	2	2	1	5
Reimbursement to the Commonwealth	3	1	1	5
Resignations due to Conduct Cases	3	7	7	17
Reprimands	4	3	3	10
Suspensions	12	1	1	22 ¹
Terminations	5	2	3	12 ²
CORI Checks	3105	1541	1449	6095
CORI Checks - Hiring Not Recommended	142	54	35	231

¹ Includes eight suspensions imposed in March of Fiscal 1983 on employees who had failed to file their state or federal tax returns.

² Includes two terminations imposed in March of Fiscal 1983 on employees who had failed to file their state or federal tax returns.

